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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/633,966 | 08/04/2003 | Nnochiri Ekwuribe | 9233-22DV | 5037 |
| 24239 | 7590 | 06/14/2006 | | EXAMINER |
| MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709 | | | | ROBINSON, HOPE A |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1656 | |

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
|---------------------------------|-------------|---|---------------------|

EXAMINER

ART UNIT PAPER

20060611

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Commissioner for Patents

The communication filed March 3, 2006 is not fully responsive to the Office communication mailed November 2, 2005, as claim 36 was amended to read " a method for treating obesity" which is the subject matter as claim 49 a withdrawn claim or non-elected claim. The instant claims are amended are directed to the invention of Group II in the restriction requirement mailed on June 16, 2005. Applicant on August 5, 2005 elected to prosecute the invention of Group I without traverse, thus, to change the elected invention which has already been examined is non-responsive (MPEP ' 821.03). To modify the elected and examined invention to match an invention that was restricted and deemed separate and distinct is non-responsive. Since the method claims as submitted are directed to an invention that is independent or distinct from the invention originally claimed for the reasons indicated above and since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. The amended claims would have been subjected to a Restriction Requirement had they been presented at the time of filing and would properly be a part of Restriction Group II set forth in the office action mailed on June 16, 2005. Since the reply appears to be bona fide attempt to comply applicant is given a TIME PERIOD of ONE (1) MONTH from the mailing date of this communication within which to correct the deficiency in order to avoid abandonment of the application.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a). Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday from 9:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr, can be reached at (571) 272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope A. Robinson, MS
Patent Examiner

6/11/06

HOPE ROBINSON
PATENT EXAMINER